

BRIAN M. BOYNTON  
Acting Assistant Attorney General  
PAUL R. PERKINS  
Deputy Director  
**KELLY E. PHIPPS**  
Trial Attorney  
kelly.e.phipps@usdoj.gov  
Department of Justice, Civil Division  
Three Constitution Square  
175 N. Street, NE Room 9.1817  
Washington, D.C. 20002  
Telephone: (202) 353-1284

SCOTT ERIK ASPHAUG, OSB #833674  
United States Attorney  
District of Oregon  
**ALEXIS A. LIEN, OSB #110569**  
Assistant United States Attorney  
alexis.lien@usdoj.gov  
1000 SW Third Ave., Suite 600  
Portland, Oregon 97204-2902  
Telephone: (503) 727-1000

Attorneys for Plaintiff United States of America

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**

**UNITED STATES OF AMERICA,**  
**ex rel. Martin G. Childs,**

**Plaintiffs,**

**v.**

**SERVICE EMPLOYEES**  
**INTERNATIONAL UNION,**

**Defendant.**

**Case No.: 6:20-cv-01610-MK**

**UNITED STATES' *EX PARTE***  
**NOTICE OF ELECTION TO**  
**DECLINE INTERVENTION**

**FILED UNDER SEAL**  
Pursuant to the False Claims Act,  
31 U.S.C. §§ 3730(b)(2) and (3)

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States of America notifies the Court of its decision not to intervene in this action.

Although the United States declines to intervene, the relator may maintain the action in the name of the United States, provided, however, that the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” 31 U.S.C. § 3730(b)(1). The United States Court of Appeals for the Ninth Circuit has held that, notwithstanding this language, the United States has the right to a hearing only when it objects to a settlement or dismissal of the action. *See U.S. ex rel. Green v. Northrop Corp.*, 59 F.3d 953, 959 (9th Cir. 1995); *U.S. ex rel. Killingsworth v. Northrop Corp.*, 25 F.3d 715, 723–25 (9th Cir. 1994). Therefore, should any party propose that this action be dismissed, settled, or otherwise discontinued, the United States requests that the Court provide the United States with notice and an opportunity to be heard before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all orders, pleadings, notices, motions, and other documents filed in this action be served upon the United States. The United States also reserves its right to order any deposition transcripts, intervene in this action for good cause at a later date, and seek the dismissal of the relator’s action or claim. The United States also requests that it be served with all notices of appeal.

Finally, the United States requests that the relator’s Complaint, this Notice, and the accompanying proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because, in discussing the content and extent of the United States’ investigation, such papers are provided by law to the Court alone for the sole purpose of

///

///

evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

DATED: February 2, 2022

Respectfully submitted,

SCOTT ERIK ASPHAUG  
United States Attorney

s/ Alexis A. Lien  
**ALEXIS A. LIEN, OSB #110569**  
Assistant United States Attorney

BRIAN M. BOYNTON  
Acting Assistant Attorney General  
PAUL R. PERKINS  
Deputy Director  
KELLY E. PHIPPS  
Trial Attorney  
Department of Justice, Civil Division  
  
Attorneys for United States of America